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October 20, 2017

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: Notice of Ex Parte Communication
Review of Local Radio Ownership Rules - Embedded Radio Markets
MB Docket Nos. 09-182 and 14-50

Dear Ms. Dortch:

On October 18, 2017, David Oxenford and Kathleen Abernathy, on behalf of Connoisseur Media, LLC ("Connoisseur"), met with Matthew Berry and Alison Nemeth of Chairman Pai's office to discuss the treatment under the Commission's multiple ownership rules of radio stations that are home to embedded markets in major metropolitan areas.[1]

Counsel for Connoisseur's emphasized that its proposal to allow the owners of embedded market stations to acquire stations in other embedded markets without having to comply with the ownership limits in the parent market is unopposed, and supported by other broadcasters and a large advertising buyer in New York. Granting this relief would allow the embedded market owners to be able to reach regional advertisers and overcome the competitive imbalance that they currently face. Connoisseur has provided significant information to demonstrate that the revenues of stations in these embedded markets is significantly less than that in comparably sized markets as so much revenue is diverted to stations in the parent market, and the embedded market owners cannot build the scale necessary to compete with these parent-market competitors.

[1] Connoisseur filed a Petition for Reconsideration of the Commission's treatment of embedded markets in the *Second Report and Order* in the referenced dockets. See *2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Second Report and Order*, MB Docket Nos. 14-50, 09-182, 07-294, and 04-256, 31 FCC Rcd 9864 (2016).

Counsel made clear that this proposal was not one that was likely to cause any issue in the future. Nielsen has not created any parent market with multiple embedded markets since portions of the Fredericksburg market were embedded into the Washington, D.C. market in 2001. Even if new multiple embedded market situations like those in Washington and New York are created in the future, they are likely to be very similar to the embedded markets that currently exist and the one that existed at one time in San Francisco, where the outlying embedded market stations do not compete with each other, but lose advertising revenue to stations from the core of the parent market.

Moreover, Connoisseur is merely asking for a presumption that the only analysis that needs to be done when assessing ownership purely in the embedded markets is one of the ownership in those markets, and not in the parent market. The FCC already has safeguards in place to prevent any abuses. BIA is the basic safeguard in the FCC rules against Nielsen markets distorting competition, and BIA already has shown that it can make that assessment in the embedded markets, classifying the one station licensed to a community in an embedded market but located on the Empire State Building to be a New York City parent market station, not one home to the Long Island market where its city of license lies. Though BIA already provides a safeguard against abuse, if more is needed to alleviate any potential concerns about abuse of the policy change urged by Connoisseur, counsel indicated that Connoisseur would be comfortable with the adoption of an objective standard that would demonstrate that a proposed combination would not have an anticompetitive impact on the parent market. Connoisseur proposed one in its reconsideration petition (based on the FCC's method of assessing ownership compliance in non-metro radio markets) or that proposed by the NAB (stating that any embedded market station would not be able to take advantage of this presumption if its service area covers more than 50% of the parent market).

Connoisseur has submitted substantial information showing that, while stations in the heart of the parent market compete in the embedded markets, those stations in the embedded markets do not compete in other embedded markets. The current policy that prevents an owner from one embedded market from owning stations in another embedded market is at odds with Commission rules that, in other Nielsen markets, allow one company to own the maximum number of stations in multiple immediately adjacent markets, even though some of those stations may have some listeners in those adjacent markets. For instance, the adjacent Pensacola and Mobile radio markets are considered separately, and one company owns the maximum number of stations in each market, even though many of the stations from each market are located on a single, centrally-located tower. Many other markets have stations that have audience in adjacent markets including Savannah and Hilton Head, Boston and Wooster, Los Angeles and Riverside/San Bernardino and Oxnard/Ventura, yet one owner could own the maximum number of stations in each of these markets. Connoisseur provided copies of the ex parte it filed in this proceeding on October 17, 2017 comparing completion between stations in embedded markets to competition in other adjacent Nielsen markets.

When asked if waivers were a solution, Connoisseur's counsel made clear that they will not work, as sellers of station clusters will not sell their stations unless they have certainty that a transaction can occur in a timely fashion - a certainty not provided by the need to seek a waiver.

Counsel also provided a copy of the slide presentation that was attached to its ex parte filed on October 11, 2017 in this proceeding.

Should there be any questions concerning this matter, please contact the undersigned.

Sincerely,

David Oxenford

cc: Matthew Berry
Alison Nemeth